



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: All Equipment Co.--Request for Reconsideration
File: B-230298.4
Date: May 24, 1988

DIGEST

Dismissal of protest for failure to file timely comments to agency report is affirmed where protester did not fulfill its obligation to notify the General Accounting Office, within required timeframe, that it had not received the report.

DECISION

All Equipment Co. (AEC) requests that we reopen our file and consider the merits of its protest against the specifications under invitation for bids (IFB) No. DLA400-88-B-1652, issued by the Defense Logistics Agency (DLA) for ground obstruction marker lights. We dismissed the protest on April 15, 1988, because we did not receive AEC's comments responding to DLA's report on the protest, or a request to have the case decided on the existing record, within 10 working days after the date scheduled for receipt of the report. AEC claims that it did not respond because it never received the agency report, and that its protest thus should not have been dismissed. We affirm the dismissal.

Our Bid Protest Regulations, 4 C.F.R. part 21 (1988), are designed to provide the protester a fair opportunity to present its case and, at the same time, to enable our Office to resolve protests in an expeditious manner so as to avoid undue delay in the procurement process. Motorola Inc.--Request for Reconsideration, B-227219.3, Oct. 27, 1987, 87-2 CPD ¶ 398. It is not uncommon for protesters to lose interest in a protest upon reading the agency report, and we therefore require an expression of continued interest in the protest to avoid undue delay in the procurement. Id.

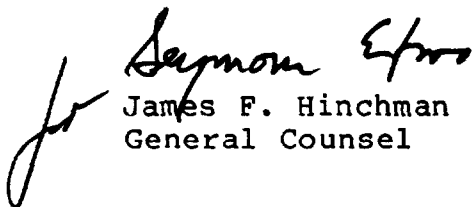
When AEC filed its protest, we mailed AEC a notice acknowledging our receipt of the protest and stating that

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under 4 C.F.R. § 21.3(k), a protester, within 10 working days of receipt of the agency report, must file written comments or advise our Office to decide the protest on the existing record. That notice informed AEC of the due date for receipt of the agency report, March 31, 1988, and advised the protester that we would assume that AEC received a copy of the report on the scheduled due date. The acknowledgment also advised the protester to notify us if the report was not received on time and warned that unless we heard from the protester by the 10th working day after the report was due, we would close our file. Section 21.3(k) also warns protesters that our Office will assume a protester received the agency report no later than the scheduled due date unless otherwise advised by the protester.

The protester's obligation to respond within the required timeframe is in no way altered by nonreceipt of the agency report. Science and Technology Institute, Inc., B-228327.2, Dec. 15, 1987, 87-2 CPD ¶ 594. The purpose of the requirement to notify our Office if the report is not received on the scheduled due date is to promote the expeditious resolution of protests. Had AEC so notified us, we could have acted to assure that the protester promptly received a copy of the agency's report, and would not have dismissed the protest. To reopen the file in the face of AEC's failure to meet its obligations in the protest process would be inconsistent with our goal of speeding the resolution of protests and we decline to do so.

We affirm the dismissal.


James F. Hinchman
General Counsel